



# COMMONWEALTH of VIRGINIA

## DEPARTMENT OF ENVIRONMENTAL QUALITY

SOUTH CENTRAL REGIONAL OFFICE

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Secretary of Natural Resources

David K. Paylor  
Director

Thomas L. Henderson  
Regional Director

**May 31, 2007**

### **STATE AIR POLLUTION CONTROL BOARD ENFORCEMENT ACTION ORDER BY CONSENT**

#### **ISSUED TO**

**Intermet Archer Creek Foundry**

**Registration Number: 30121**

#### **SECTION A: Purpose**

This is a Consent Order issued under the authority of Va. Code § 10.1-1300 *et seq.* and 10.1-1185, between the State Air Pollution Control Board and Intermet Archer Creek Foundry for the purpose of resolving certain violations of environmental law and/or regulations. This violation was addressed in a Notice of Violations (NOV) dated March 29, 2007.

#### **SECTION B: Definitions**

Unless the context clearly indicates otherwise, the following words and terms have the meaning assigned to them below:

1. "Va. Code" means the Code of Virginia (1950), as amended.
2. "Board" means the State Air Pollution Control Board, a permanent collegial body of the Commonwealth of Virginia as described in Code §§ 10.1-1301 and 10.1-1184.
3. "Department" or "DEQ" means the Department of Environmental Quality, an agency of the Commonwealth of Virginia as described in Va. Code § 10.1-1183.
4. "Director" means the Director of the Department of Environmental Quality.
5. "Order" means this document, also known as a Consent Order.
6. "Intermet Archer Creek Foundry" means that this is a facility that is located in Campbell County and is certified to do business in Virginia and its affiliates, partners, subsidiaries, and parents.

7. "Facility" means the Intermet Archer Creek Foundry facility, located in Campbell County, Virginia.
8. "Regulations" means the "State Air Pollution Control Board Regulations for the Control and Abatement of Air Pollution," which have been incorporated into Title 9 of the Virginia Administrative Code (VAC).

### **SECTION C: Findings of Fact and Conclusions of Law**

Intermet Archer Creek Foundry is an automated green sand facility, producing ductile iron castings up to 100 pounds. The facility currently has six valid permits: the June 25, 2001 permit to construct and operate a used/waste sand and baghouse handling system, a September 5, 2001 permit to construct and operate a cupola slag processing plant, an August 19, 2002 permit to operate core machines, a March 16, 2006 permit to modify and operate a gray and ductile iron foundry, an August 23, 2004 permit to construct and operate a paint spraying operation and a Title V permit to operate a gray and ductile iron parts manufacturing facility dated October 7, 2002. An amendment was made to the Title V permit on February 23, 2007.

On February 5, 2007, source contact, Terry Moore, reported by letter, that there was a discovery made of fourteen 1-hour observation periods, for periodic monitoring of the eyebrows, that appeared to be above the 20% opacity limit. DEQ inspector reviewed all fourteen 1-hour observations and concluded that nine of the fourteen 1-hour observations appeared to be above the 20% opacity limit as stated in the Title V permit condition XIX.A.1. Conditions XX.C.3 (Semi-Annual Deviation Reporting) and XX.D (Annual Compliance Certification Reporting) also apply for failing to report the observations that appeared to be above the 20% opacity limit.

Condition XIX.A.1. Facility Wide Conditions of the October 7, 2002 Title V Permit, which was amended February 23, 2007, states the following:

Unless otherwise specified in this part, on or after the date on which the performance test required to be conducted by 9 VAC 5-50-30 is completed, no owner or other person shall cause or permit to be discharged into the atmosphere from any affected facility (constructed, modified or relocated after March 17, 1972, or reconstructed on or after December 10, 1976) any visible emissions which exhibit greater than 20% opacity, except for one six-minute period in any one hour of not more than 30% opacity as determined by EPA Method 9 (reference 40 CFR 60, Appendix A).

Failure to meet the requirements of this section because of the presence of water vapor shall not be a violation of this section.  
(9 VAC 5-50-80 and 9 VAC 5-80-110)

Condition XX.C.3. Recordkeeping and Reporting (Semi-Annual Deviation Report) condition of the October 7, 2002 Title V Permit, which was amended February 23, 2007, states the following:

The permittee shall submit the results of monitoring contained in any applicable requirement to DEQ no later than March 1 and September 1 of each calendar year. This report must be signed by a responsible official, consistent with 9 VAC 5-80-80 G, and shall include:

- a. The time period included in the report. The time periods to be addressed are January 1 to June 30 and July 1 to December 31.
- b. All deviations from permit requirements. For purposes of this permit, deviations include, but are not limited to:
  - (1) Exceedance of emissions limitations or operational restrictions;
  - (2) Excursions from control device operating parameter requirements, as documented by continuous emission monitoring, periodic monitoring, or compliance assurance monitoring which indicates an exceedance of emission limitations or operational restrictions; or,
  - (3) Failure to meet monitoring, recordkeeping, or reporting requirements contained in this permit.
- c. If there were no deviations from permit conditions during the time period, the permittee shall include a statement in the report that no deviations from permit requirements occurred during this semi-annual reporting period.

(9 VAC 5-80-110 F)

Condition XX.D. Recordkeeping and Reporting (Annual Compliance Certification Report) condition of the October 7, 2002 Title V Permit, which was amended February 23, 2007, states the following:

Exclusive of any reporting required to assure compliance with the terms and conditions of this permit or as part of a schedule of compliance contained in this permit, the permittee shall submit to DEQ and EPA no later than March 1 each calendar year a certification of compliance with all terms and conditions of this permit including emission limitation standards or work practices. The compliance certification shall comply with such additional requirements that may be specified pursuant to 114(a)(3) and 1504(b) of the federal Clean Air Act. This certification shall be signed by a responsible official, consistent with 9 VAC 5-80-80 G, and shall include:

1. The time period included in the certification. The time period to be addressed is January 1 to December 31.

2. The identification of each term or condition of the permit that is the basis of the certification.
3. The compliance status.
4. Whether compliance was continuous or intermittent, and if not continuous, documentation of each incident of non-compliance.
5. Consistent with subsection 9 VAC 5-80-110 E, the method or methods used for determining the compliance status of the source at the time of certification and over the reporting period.
6. Such other facts as the permit may require to determine the compliance status of the source.
7. One copy of the annual compliance certification shall be sent to EPA at the following address:

Clean Air Act Title V Compliance Certification (3AP00)  
U. S. Environmental Protection Agency, Region III  
1650 Arch Street  
Philadelphia, PA 19103-2029.

(9 VAC 5-80-110 K.5)

A meeting was held at Intermet with Mr. Bill Hopkins and Mr. Terry Moore, along with Ms. Sandra Morse, AEGIS Environmental, Inc. and Mr. Paul Thomson, Woods Rogers, PLC Attorneys at Law, on February 8, 2007 to discuss this issue and several other issues.

The dates the source appeared to be above the 20% opacity limit were the following: 10/23/02, 8/27/03, 3/1/04, 3/25/04, 4/15/04, 4/27/04, 5/19/04, 6/13/06 and 7/6/06. These nine observations contained more than one 6-minute exceedance in the reported 1-hour observations.

A second meeting was held at SCRO with Mr. Terry Moore on April 5, 2007 to discuss the NOAV issued and the associated civil penalty.

An on-site inspection was conducted at Intermet on May 21, 2007. During a file review of the periodic monitoring records, an additional visible emission evaluation appeared to be out of compliance on 8/11/06. The 8/11/06 exceedance will be incorporated into the Civil Penalty associated with this Consent Order.

A third meeting was held with Terry Moore and Bill Hopkins, of Intermet and Paul Thompson, Woods Rogers, PLC Attorneys at Law, on May 23, 2007, to discuss the Consent Order and the associated civil penalties.

**SECTION D: Agreement and Order**

Accordingly, the Board, by virtue of the authority of §10.1-1307 D., §10.1-1309, §10.1-1184, §10.1-1316 C., and §10.1-1186.2 orders and Intermet Archer Creek Foundry agrees that:

1. Intermet Archer Creek foundry shall pay a civil charge of \$40,426.00 within thirty (30) days of the effective date of this Order. Payment shall be by check, certified check, money order, or cashier check payable to “Treasurer of the Commonwealth of Virginia” and sent to:

Receipts Control  
Department of Environmental Quality  
PO Box 1104  
Richmond, Virginia 23218

Intermet Archer Creek Foundry shall include its Federal Identification Number with the civil charge payment and shall indicate that the payment is being made in accordance with the requirements of this paragraph.

**SECTION E: Administrative Provisions**

1. The Board may modify, rewrite, or amend the Order with the consent of Intermet Archer Creek Foundry, for good cause shown by Intermet Archer Creek Foundry, or on its own motion after notice and opportunity to be heard.
2. This Order only addresses and resolves those violations specifically identified herein, including those matters addressed in the Notice of Violation issued to Intermet Archer Creek Foundry by DEQ on March 29, 2007. This Order shall not preclude the Board or the Director from taking any action authorized by law, including but not limited to: (1) taking any action authorized by law regarding any additional, subsequent, or subsequently discovered violations; (2) seeking subsequent remediation of the facility as may be authorized by law; or (3) taking subsequent action to enforce the Order. This Order shall not preclude appropriate enforcement actions by other federal, state, or local regulatory authorities for matters not addressed herein.
3. For purposes of this Order and subsequent actions with respect to this Order, Intermet Archer Creek Foundry admits the jurisdictional allegations, but does not admit factual findings, and conclusions of law contained herein.
4. Intermet Archer Creek Foundry consents to venue in the Circuit Court of the City of Richmond for any civil action taken to enforce the terms of this Order.
5. Intermet Archer Creek Foundry declares it has received fair and due process under the Administrative Process Act, Va. Code §§ 2.2-4000 *et seq.*, and the State Air Pollution Control Law and it waives the right to any hearing or other administrative proceeding

authorized or required by law or regulation, and to any judicial review of any issue of fact or law contained herein. Nothing herein shall be construed as a waiver of the right to any administrative proceeding for, or to judicial review of, any action taken by the Board to enforce this Order.

6. Failure by Intermet Archer Creek Foundry to comply with any of the terms of this Order shall constitute a violation of an order of the Board. Nothing herein shall waive the initiation of appropriate enforcement actions or the issuance of additional orders as appropriate by the Board or the Director as a result of such violations. Nothing herein shall affect appropriate enforcement actions by any other federal, state, or local regulatory authority.
7. If any provision of this Order is found to be unenforceable for any reason, the remainder of the Order shall remain in full force and effect.
8. Intermet Archer Creek Foundry shall be responsible for failure to comply with any of the terms and conditions of this Order unless compliance is made impossible by earthquake, flood, other acts of God, war, strike, or such other occurrence. Intermet Archer Creek Foundry shall show that such circumstances were beyond its control and not due to a lack of good faith or diligence on its part. Intermet Archer Creek Foundry shall notify the DEQ Regional Director in writing when circumstances are anticipated to occur, are occurring, or have occurred that may delay compliance or cause noncompliance with any requirement of the Order. Such notice shall set forth:
  - a. the reasons for the delay or noncompliance;
  - b. the projected duration of any such delay or noncompliance;
  - c. the measures taken and to be taken to prevent or minimize such delay or noncompliance; and
  - d. the timetable by which such measures will be implemented and the date full compliance will be achieved.

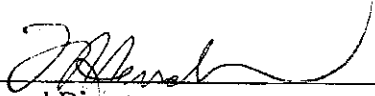
Failure to so notify the Regional Director within 24 hours of learning of any condition above, which the parties intend to assert will result in the impossibility of compliance, shall constitute a waiver of any claim to inability to comply with a requirement of this Order.

9. This Order is binding on the parties hereto, their successors in interest, designees and assigns, jointly and severally.
10. This Order shall become effective upon execution by both the Director or his designee and Intermet Archer Creek Foundry. Notwithstanding the foregoing, Intermet Archer Creek Foundry agrees to be bound by any compliance date, which precedes the effective date of this Order.

11. This Order shall continue in effect until the Director or Board terminates the Order in his or its sole discretion upon 30 days written notice to Intermet Archer Creek Foundry. Termination of this Order, or any obligation imposed in this Order, shall not operate to relieve Intermet Archer Creek Foundry, from its obligation to comply with any statute, regulation, permit condition, other order, certificate, certification, standard, or requirement otherwise applicable.

12. By its signature below Internet Archer Creek Foundry voluntarily agrees to the issuance of this Order.

And it is so ORDERED this day of 6/5, 2007.

  
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Regional Director  
Department of Environmental Quality

Internet Archer Creek Foundry voluntarily agrees to the issuance of this Order.

By: William D. Hopkins  
Date: 6-5-07

Commonwealth of Virginia, City/County of Campbell

The foregoing document was signed and acknowledged before me this 5 day of

June, 2007, by William D. Hopkins, who is  
(name)

General Plant Mgr. of Internet Archer Creek Foundry on behalf of the Corporation.  
(title)

  
\_\_\_\_\_  
Notary Public

My commission expires: 12-31-2010